

STATE OF MAINE  
SUPREME JUDICIAL COURT  
SITTING AS THE LAW COURT

---

LAW COURT DOCKET NO. KEN.-14-313

---

STATE OF MAINE

Appellee

v

MARK MURPHY

Appellant

ON APPEAL FROM THE KENNEBEC COUNTY SUPERIOR COURT

---

MOTION FOR RECONSIDERATION, Rule 14 (b)

---

MAEGHAN MALONEY  
District Attorney

Kennebec County District Attorney  
95 State Street  
Augusta, Maine 04330  
207-623-1156  
Maeghan.Maloney@maine.gov

### **Motion and Memorandum**

Now comes the State of Maine by and through its attorney Maeghan Maloney and hereby moves this Court for Reconsideration following Appellate Rule 14 (b):

- 1) The Court issued an opinion in *State v. Murphy*, 2015 ME 62, on May 12, 2015.
- 2) In the last paragraph of the *State v. Murphy* opinion, the Court quotes *State v. Robinson*, 1999 ME 86, ¶ 13, as holding that “court action to consolidate the duplicative counts is appropriate to assure that a person cannot be convicted or punished more than once for the same criminal act.”
- 3) The opinion in *State v. Murphy* also states that the case will be remanded “to the trial court for identification of the single count of which Murphy was convicted, dismissal of the remaining two counts, and entry of a final sentence on the merged charge.”
- 4) The State asks for reconsideration to seek guidance on whether the duplicative counts should be merged or dismissed. The State argues that the duplicative counts should be merged as held in *State v. Robinson*, 1999 ME 86.

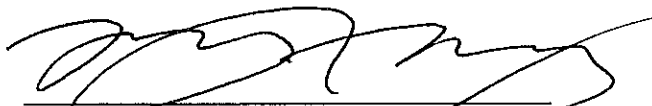
*Wherefore*, the State moves this honorable Court to change the last sentence of the opinion in *State v. Murphy* to “Because we cannot be certain which of the three counts the trial court would select as the operative charge,

we remind to the trial court for identification of the single count of which Murphy was convicted, *merger* of the remaining two counts, and entry of a final sentence on the merged charge.” (Italics provided to identify the changed word.)

### **CONCLUSION**

For the foregoing reasons, this Court should grant the State’s Motion for Reconsideration.

Dated: May 22, 2015

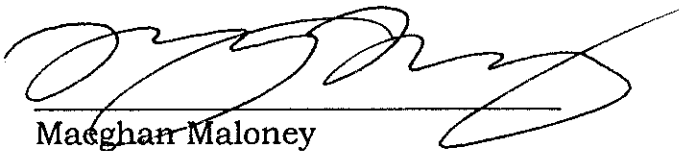


Maeghan Maloney, Bar. No. 8792  
District Attorney  
Office of the District Attorney  
95 State Street  
Augusta, Maine 04330

### **CERTIFICATE OF SERVICE**

I, Maeghan Maloney, Attorney for the Appellee, State of Maine, certify that I have this day mailed two copies of the foregoing “Motion for Reconsideration” to be served upon the Appellant by depositing said copies in the United States Mail, postage prepaid, addressed to Scott F. Hess Law Office, 82 Winthrop Street, Augusta, Maine 04330.

Dated: May 22, 2015



Maeghan Maloney  
Bar No. 8792  
District Attorney  
Office of the District Attorney  
95 State Street  
Augusta, Maine 04330